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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,982	07/31/2000	Junya Kaku	000921	4508

38834 7590 04/20/2005

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EXAMINER

TRAN, NHAN T

ART UNIT PAPER NUMBER

2615

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/629,982

Applicant(s)

KAKU, JUNYA

Examiner

Nhan T. Tran

Art Unit

2615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

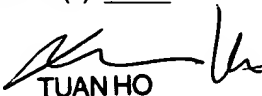
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 5-8.
Claim(s) withdrawn from consideration: 1-4.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


TUAN HO
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: On page 5 of the Applicant's remarks, the Applicant asserts, "neither Mitsuhashi nor Anderson disclose or remotely suggest anything concerning a determiner for determining whether or not said instruction key is in the operative state at a specific timing at which a next recording process by said recorder is enabled; and a controller for permitting a displaying operation of said second displayer when a determination result of said determiner is affirmative, and prohibiting the displaying operation of said second displayer when the determination result of said determiner is negative, as called for in claim 5."

In response, the Examiner respectfully disagrees and provides a clarification on how the abovementioned limitations being read on the cited reference to Mitsuhashi. First of all, the digital camera in Mitsuhashi continuously and timely checks if the shutter button 20 is in non-operative state or operative state (see control loop in Fig. 2 and an important note is that timing is inherent for the control loop to function as disclosed). It is clearly seen from steps S03, S04 and col. 2, lines 31-42 and col. 7, lines 43-55, the operative state of the shutter button is either first pushed level or second pushed level and the non-operative state is when the shutter button is not pushed at all. Secondly, after an image is completely recorded into the recording medium and the user releases the shutter button (non pushed level) at the end of step S06, a next recording process is enabled by going back to live view mode (EE mode) to be ready for a next capture. In this live view mode, the shutter button is continuously and timely checked for its operative state (see loop at steps S03 and S04). If the shutter button is detected at the first level (half push) the controller permits a displaying operation of a still image just previously captured by reading out the image from the recording medium and if the shutter button is not pushed at all, the loop goes back to live view mode (EE mode) which prohibits the displaying operation of the captured still image by only displaying moving images as a live view or electronic viewfinder mode. The Examiner respectfully points out that steps S01 to S04 in Mitsuhashi indicates "a specific timing at which a next recording process by the recorder is enabled," and when determination result in step S04 is affirmative (Yes), the previously captured image is permitted to be displayed, and if the determination result in step S04 is negative (No), the previously captured image is prohibited from displaying by going back to display moving images as a live view mode.

In view of the above, the Examiner believes that the claimed limitations read on the cited reference to Mitsuhashi at least for the reasons provided above. Therefore, claims 5-8 will be rejected in view of at least the teachings of Mitsuhashi.